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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,757	02/06/2004	A. Carleton Elliott	10006-005A	4027
51476 7590 11/02/2007 JERRY TURNER SEWELL P.O. BOX 10999 NEWPORT BEACH, CA 92658-5015			EXAMINER NGUYEN, CHI Q	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 11/02/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jerry@jtslaw.com

## Office Action Summary

**Application No.**

10/773,757

**Applicant(s)**

ELLIOT ET AL.

**Examiner**

Chi Q. Nguyen

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 8/23/2007.

#### ***Status Of Claims***

Claims 1-8 are pending and have been examined.

Claims 9-17 have been cancelled.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,050,033 to Wrightman.

Claim 1:

Wrightman discloses an attachable device comprising a plate 25 mountable to a lower end of an end post of a shear wall, the plate having dimensions selected to conform to the lower end of the end post, and an extended portion 40f positioned generally perpendicular to the plate 25, the extended portion having at least one dimension selected capable to fit through a hole in a mudsill of the shear wall and having a length elected to conform with a thickness of the mudsill such that when the compression post is mounted to the end post of the shear wall and the shear wall is mounted on a structural support, forces applied to the compression post by the end post are communicated via the plate and the extended portion to the structural support. As

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previously noted, the relation with an end post or a structural support is not given patentable weight because the applicant elected a subcombination of a compression post (see Fig. 10).

Claim 2:

Wherein the extended portion 40f is secured to the plate 25.

Claim 7:

Wherein the extended portion 40f and the plate 25 comprise an unitary body (see Fig. 10). Note that a term "cast" is considered as a method of forming a device and is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Claim 8:

Wherein the extended portion 40f is cylindrical and the at least one dimension is an outside diameter.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4,830,341 to Arteau et al.

Claim 1:

Arteau discloses an attachable device comprising a plate 40 mountable to a lower end of an end post of a shear wall, the plate having dimensions selected to conform to the lower end of the end post, and an extended portion 48 positioned generally perpendicular to the plate 40, the extended portion having at least one dimension selected capable to fit through a hole in a mudsill of the shear wall and having a length elected to conform with a thickness of the mudsill such that when the

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compression post is mounted to the end post of the shear wall and the shear wall is mounted on a structural support, forces applied to the compression post by the end post are communicated via the plate and the extended portion to the structural support. As previously noted, the relation with an end post or a structural support is not given patentable weight because the applicant elected a subcombination of a compression post (see Fig. 2).

Claim 2:

Wherein the extended portion 48 is secured to the plate 40.

Claim 3:

Wherein the extended portion 48 is secured to the plate 40 by at least one weld (see col. 2, lines 60-65).

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 2,625,815 to Black.

Claim 1:

Black discloses an attachable device comprising a plate 12 mountable to a lower end of an end post of a shear wall, the plate having dimensions selected to conform to the lower end of the end post, and an extended portion 20 positioned generally perpendicular to the plate 12, the extended portion having at least one dimension selected capable to fit through a hole in a mudsill of the shear wall and having a length elected to conform with a thickness of the mudsill such that when the compression post is mounted to the end post of the shear wall and the shear wall is mounted on a structural support, forces applied to the compression post by the end post are

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communicated via the plate and the extended portion to the structural support. As previously noted, the relation with an end post or a structural support is not given patentable weight because the applicant elected a subcombination of a compression post (see Fig. 2).

Claim 2:

Wherein the extended portion 20 is secured to the plate 12.

Claim 3:

Wherein the extended portion 20 is secured to the plate 12 by at least one weld (see col. 3, lines 1-2).

Claim 4:

Wherein the extended portion 20 is secured to the plate by press fitting an end of the extended portion into a recess 44 in the plate (Fig. 2).

Claim 5:

Wherein one of the extended portion 20 is threaded (col. 3, line 1), the plate 12 includes a threaded aperture or bore, and the threaded end of the extended portion is engageable with the threaded bore to secure the extended portion to the plate (Fig. 2).

Claim 6:

Further comprising an end cap 9 on at least one of the extended portion, the end cap having a bore there through, a threaded bore in the plate 12, and a bolt 8 sized to extend through the bore of the end cap, the bolt having a threaded end engageable with the threaded bore in the plate to secure the extended portion to the plate (see Fig. 2).

Claim 7:

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Wherein the extended portion 20 and the plate 12 comprise an unitary body (see Fig. 2 and col. 3, line 2). Note that a term "cast" is considered as a method of forming a device and is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Claim 8:

Wherein the extended portion 20 is cylindrical and the at least one dimension is an outside diameter.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

  
CQN

10/24/2007

/J. CHAPMAN/  
PRIMARY EXAMINER